

107TH CONGRESS
1ST SESSION

H. R. 1088

AN ACT

To amend the Securities Exchange Act of 1934 to reduce fees collected by the Securities and Exchange Commission, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Investor and Capital
3 Markets Fee Relief Act”.

4 **SEC. 2. IMMEDIATE TRANSACTION FEE REDUCTIONS.**

5 Section 31 of the Securities Exchange Act of 1934
6 (15 U.S.C. 78ee) is amended—

7 (1) by striking “ $\frac{1}{300}$ of one percent” each place
8 it appears in subsections (b) and (d) and inserting
9 “\$15 per \$1,000,000”;

10 (2) by striking “and security futures products”
11 each place it appears in such subsections and insert-
12 ing “security futures products, and options on secu-
13 rities indexes (excluding a narrow-based security
14 index)”;

15 (3) in the first sentence of subsection (b), by
16 striking “, except that” and all that follows through
17 the end of such sentence and inserting a period;

18 (4) in paragraph (1) of subsection (d), by strik-
19 ing “, except that” and all that follows through the
20 end of such paragraph and inserting a period;

21 (5) in subsection (e), by striking “\$0.02” and
22 inserting “\$0.009”; and

23 (6) by adding at the end the following new sub-
24 section:

1 “(i) PRO RATA APPLICATION.—The rates per
 2 \$1,000,000 required by this section shall be applied pro
 3 rata to amounts and balances of less than \$1,000,000.”.

4 **SEC. 3. REVISION OF SECURITIES TRANSACTION FEE PRO-**
 5 **VISIONS; ADDITIONAL FEE REDUCTIONS.**

6 (a) POOLING AND ALLOCATION OF COLLECTIONS.—
 7 Section 31 of the Securities Exchange Act of 1934 (15
 8 U.S.C. 78ee) is further amended—

9 (1) in subsection (b)—

10 (A) by striking “Every” and inserting

11 “Subject to subsection (j), each”; and

12 (B) by striking the last sentence;

13 (2) by striking subsection (c);

14 (3) in subsection (d)—

15 (A) by striking paragraphs (2) and (3);

16 (B) by striking the following:

17 “(d) OFF-EXCHANGE TRADES OF LAST-SALE-RE-
 18 PORTED SECURITIES.—

19 “(1) COVERED TRANSACTIONS.—Each national
 20 securities”

21 and inserting the following:

22 “(c) OFF-EXCHANGE TRADES OF EXCHANGE REG-
 23 ISTERED AND LAST-SALE-REPORTED SECURITIES.—Sub-
 24 ject to subsection (j), each national securities”;

1 (C) by inserting “registered on a national
2 securities exchange or” after “narrow-based se-
3 curity index))” (as added by section 2(2)); and

4 (D) by striking “, excluding any sales for
5 which a fee is paid under subsection (c)”;

6 (4) in subsection (e), by striking “except that
7 for fiscal year 2007” and all that follows through
8 the end of such subsection and inserting the fol-
9 lowing: “except that for fiscal year 2007 and each
10 succeeding fiscal year such assessment shall be equal
11 to \$0.0042 for each such transaction.”;

12 (5) in subsection (f), by striking “DATES FOR
13 PAYMENT OF FEES.—The fees required” and insert-
14 ing “DATES FOR PAYMENTS.—The fees and assess-
15 ments required”;

16 (6) by redesignating subsections (e) through (i)
17 (as added by section 2(5)) as subsections (d)
18 through (h), respectively;

19 (7) by adding at the end the following new sub-
20 section:

21 “(i) DEPOSIT OF FEES.—

22 “(1) OFFSETTING COLLECTIONS.—Fees col-
23 lected pursuant to subsections (b), (c), and (d) for
24 any fiscal year—

1 “(A) shall be deposited and credited as off-
 2 setting collections to the account providing ap-
 3 propriations to the Commission; and

4 “(B) except as provided in subsection (k),
 5 shall not be collected for any fiscal year except
 6 to the extent provided in advance in appropria-
 7 tion Acts.

8 “(2) GENERAL REVENUES PROHIBITED.—No
 9 fees collected pursuant to subsections (b), (c), and
 10 (d) for fiscal year 2002 or any succeeding fiscal year
 11 shall be deposited and credited as general revenue of
 12 the Treasury.”.

13 (b) ADDITIONAL REDUCTIONS OF FEES.—

14 (1) AMENDMENT.—Section 31 of the Securities
 15 Exchange Act of 1934 (15 U.S.C. 78ee) is further
 16 amended by adding after subsection (i) (as added by
 17 subsection (a)(7)) the following new subsections:

18 “(j) RECAPTURE OF PROJECTION WINDFALLS FOR
 19 FURTHER RATE REDUCTIONS.—

20 “(1) ANNUAL ADJUSTMENT.—For each of the
 21 fiscal years 2003 through 2011, the Commission
 22 shall by order adjust each of the rates applicable
 23 under subsections (b) and (c) for such fiscal year to
 24 a uniform adjusted rate that, when applied to the
 25 baseline estimate of the aggregate dollar amount of

1 sales for such fiscal year, is reasonably likely to
2 produce aggregate fee collections under this section
3 (including assessments collected under subsection
4 (d)) that are equal to the target offsetting collection
5 amount for such fiscal year.

6 “(2) MID-YEAR ADJUSTMENT.—For each of the
7 fiscal years 2002 through 2011, the Commission
8 shall determine, by March 1 of such fiscal year,
9 whether, based on the actual aggregate dollar vol-
10 ume of sales during the first 5 months of such fiscal
11 year, the baseline estimate of the aggregate dollar
12 volume of sales used under paragraph (1) for such
13 fiscal year (or \$48,800,000,000,000 in the case of
14 fiscal year 2002) is reasonably likely to be 10 per-
15 cent (or more) greater or less than the actual aggre-
16 gate dollar volume of sales for such fiscal year. If
17 the Commission so determines, the Commission shall
18 by order, no later than such March 1, adjust each
19 of the rates applicable under subsections (b) and (c)
20 for such fiscal year to a uniform adjusted rate that,
21 when applied to the revised estimate of the aggre-
22 gate dollar amount of sales for the remainder of
23 such fiscal year, is reasonably likely to produce ag-
24 gregate fee collections under this section (including
25 fees collected during such 5-month period and as-

1 assessments collected under subsection (d)) that are
2 equal to the target offsetting collection amount for
3 such fiscal year. In making such revised estimate,
4 the Commission shall, after consultation with the
5 Congressional Budget Office and the Office of Man-
6 agement and Budget, use the same methodology re-
7 quired by subsection (1)(2).

8 “(3) FINAL RATE ADJUSTMENT.—For fiscal
9 year 2012 and all of the succeeding fiscal years, the
10 Commission shall by order adjust each of the rates
11 applicable under subsections (b) and (c) for all of
12 such fiscal years to a uniform adjusted rate that,
13 when applied to the baseline estimate of the aggre-
14 gate dollar amount of sales for fiscal year 2012, is
15 reasonably likely to produce aggregate fee collections
16 under this section in fiscal year 2012 (including as-
17 sessments collected under subsection (d)) equal to
18 the target offsetting collection amount for fiscal year
19 2011.

20 “(4) REVIEW AND EFFECTIVE DATE.— In exer-
21 cising its authority under this subsection, the Com-
22 mission shall not be required to comply with the pro-
23 visions of section 553 of title 5, United States Code.
24 An adjusted rate prescribed under paragraph (1),
25 (2), or (3) and published under subsection (g) shall

1 not be subject to judicial review. Subject to sub-
2 sections (i)(1)(B) and (k)—

3 “(A) an adjusted rate prescribed under
4 paragraph (1) shall take effect on the later of—

5 “(i) the first day of the fiscal year to
6 which such rate applies; or

7 “(ii) 30 days after the date on which
8 a regular appropriation to the Commission
9 for such fiscal year is enacted;

10 “(B) an adjusted rate prescribed under
11 paragraph (2) shall take effect on April 1 of the
12 fiscal year to which such rate applies; and

13 “(C) an adjusted rate prescribed under
14 paragraph (3) shall take effect on the later of—

15 “(i) the first day of fiscal year 2012;
16 or

17 “(ii) 30 days after the date on which
18 a regular appropriation to the Commission
19 for fiscal year 2012 is enacted.

20 “(k) LAPSE OF APPROPRIATION.—If on the first day
21 of a fiscal year a regular appropriation to the Commission
22 has not been enacted, the Commission shall continue to
23 collect (as offsetting collections) the fees and assessments
24 under subsections (b), (c), and (d) at the rate in effect

1 during the preceding fiscal year, until 30 days after the
 2 date such a regular appropriation is enacted.

3 “(l) DEFINITIONS.—For purposes of this section:

4 “(1) TARGET OFFSETTING COLLECTION
 5 AMOUNT.—The target offsetting collection amount
 6 for each of the fiscal years 2002 through 2011 is de-
 7 termined according to the following table:

“Fiscal year:	Target offsetting collection amount
2002	\$732,000,000
2003	\$849,000,000
2004	\$1,028,000,000
2005	\$1,220,000,000
2006	\$1,435,000,000
2007	\$881,000,000
2008	\$892,000,000
2009	\$1,023,000,000
2010	\$1,161,000,000
2011	\$1,321,000,000

8 “(2) BASELINE ESTIMATE OF THE AGGREGATE
 9 DOLLAR AMOUNT OF SALES.—The baseline estimate
 10 of the aggregate dollar amount of sales for any fiscal
 11 year is the baseline estimate of the aggregate dollar
 12 amount of sales of securities (other than bonds, de-
 13 bentures, other evidences of indebtedness, security
 14 futures products, and options on securities indexes
 15 (excluding a narrow-based security index)) to be
 16 transacted on each national securities exchange and
 17 by or through any member of each national securi-
 18 ties association (otherwise than on a national securi-
 19 ties exchange) during such fiscal year as determined

1 by the Commission, after consultation with the Con-
2 gressional Budget Office and the Office of Manage-
3 ment and Budget, using the methodology required
4 for making projections pursuant to section 257 of
5 the Balanced Budget and Emergency Deficit Control
6 Act of 1985.”.

7 (2) CONFORMING AMENDMENT.—Section 31(g)
8 of such Act (as redesignated by subsection (a)(6) of
9 this section) is amended by inserting before the pe-
10 riod at the end the following: “not later than April
11 30 of the fiscal year preceding the fiscal year to
12 which such rate applies, together with any estimates
13 or projections on which such fees are based”.

14 **SEC. 4. REDUCTION OF REGISTRATION FEES.**

15 Section 6(b) of the Securities Act of 1933 (15 U.S.C.
16 77f(b)) is amended by striking paragraphs (2) through (5)
17 and inserting the following:

18 “(2) FEE PAYMENT REQUIRED.—At the time of
19 filing a registration statement, the applicant shall
20 pay to the Commission a fee at a rate that shall be
21 equal to \$92 per \$1,000,000 of the maximum aggre-
22 gate price at which such securities are proposed to
23 be offered, except that during fiscal year 2003 and
24 any succeeding fiscal year such fee shall be adjusted
25 pursuant to paragraph (5) or (6).

1 “(3) OFFSETTING COLLECTIONS.—Fees col-
2 lected pursuant to this subsection for any fiscal
3 year—

4 “(A) shall be deposited and credited as off-
5 setting collections to the account providing ap-
6 propriations to the Commission; and

7 “(B) except as provided in paragraph (9),
8 shall not be collected for any fiscal year except
9 to the extent provided in advance in appropria-
10 tion Acts.

11 “(4) GENERAL REVENUES PROHIBITED.—No
12 fees collected pursuant to this subsection for fiscal
13 year 2002 or any succeeding fiscal year shall be de-
14 posited and credited as general revenue of the
15 Treasury.

16 “(5) ANNUAL ADJUSTMENT.—For each of the
17 fiscal years 2003 through 2011, the Commission
18 shall by order adjust the rate required by paragraph
19 (2) for such fiscal year to a rate that, when applied
20 to the baseline estimate of the aggregate maximum
21 offering prices for such fiscal year, is reasonably
22 likely to produce aggregate fee collections under this
23 subsection that are equal to the target offsetting col-
24 lection amount for such fiscal year.

1 “(6) FINAL RATE ADJUSTMENT.—For fiscal
2 year 2012 and all of the succeeding fiscal years, the
3 Commission shall by order adjust the rate required
4 by paragraph (2) for all of such fiscal years to a
5 rate that, when applied to the baseline estimate of
6 the aggregate maximum offering prices for fiscal
7 year 2012, is reasonably likely to produce aggregate
8 fee collections under this subsection in fiscal year
9 2012 equal to the target offsetting collection amount
10 for fiscal year 2011.

11 “(7) PRO RATA APPLICATION.—The rates per
12 \$1,000,000 required by this subsection shall be ap-
13 plied pro rata to amounts and balances of less than
14 \$1,000,000.

15 “(8) REVIEW AND EFFECTIVE DATE.— In exer-
16 cising its authority under this subsection, the Com-
17 mission shall not be required to comply with the pro-
18 visions of section 553 of title 5, United States Code.
19 An adjusted rate prescribed under paragraph (5) or
20 (6) and published under paragraph (10) shall not be
21 subject to judicial review. Subject to paragraphs
22 (3)(B) and (9)—

23 “(A) an adjusted rate prescribed under
24 paragraph (5) shall take effect on the later of—

1 “(i) the first day of the fiscal year to
2 which such rate applies; or

3 “(ii) 5 days after the date on which a
4 regular appropriation to the Commission
5 for such fiscal year is enacted; and

6 “(B) an adjusted rate prescribed under
7 paragraph (6) shall take effect on the later of—

8 “(i) the first day of fiscal year 2012;
9 or

10 “(ii) 5 days after the date on which a
11 regular appropriation to the Commission
12 for fiscal year 2012 is enacted.

13 “(9) LAPSE OF APPROPRIATION.—If on the
14 first day of a fiscal year a regular appropriation to
15 the Commission has not been enacted, the Commis-
16 sion shall continue to collect fees (as offsetting col-
17 lections) under this subsection at the rate in effect
18 during the preceding fiscal year, until 5 days after
19 the date such a regular appropriation is enacted.

20 “(10) PUBLICATION.—The Commission shall
21 publish in the Federal Register notices of the rate
22 applicable under this subsection and under sections
23 13(e) and 14(g) for each fiscal year not later than
24 April 30 of the fiscal year preceding the fiscal year

1 to which such rate applies, together with any esti-
 2 mates or projections on which such rate is based.

3 “(11) DEFINITIONS.—For purposes of this sub-
 4 section:

5 “(A) TARGET OFFSETTING COLLECTION
 6 AMOUNT.—The target offsetting collection
 7 amount for each of the fiscal years 2002
 8 through 2011 is determined according to the
 9 following table:

“Fiscal year:	Target offsetting collection amount
2002	\$337,000,000
2003	\$435,000,000
2004	\$467,000,000
2005	\$570,000,000
2006	\$689,000,000
2007	\$214,000,000
2008	\$234,000,000
2009	\$284,000,000
2010	\$334,000,000
2011	\$394,000,000

10 “(B) BASELINE ESTIMATE OF THE AGGRE-
 11 GATE MAXIMUM OFFERING PRICES.—The base-
 12 line estimate of the aggregate maximum offer-
 13 ing prices for any fiscal year is the baseline es-
 14 timate of the aggregate maximum offering price
 15 at which securities are proposed to be offered
 16 pursuant to registration statements filed with
 17 the Commission during such fiscal year as de-
 18 termined by the Commission, after consultation
 19 with the Congressional Budget Office and the

1 Office of Management and Budget, using the
2 methodology required for projections pursuant
3 to section 257 of the Balanced Budget and
4 Emergency Deficit Control Act of 1985.”.

5 **SEC. 5. FEES FOR STOCK REPURCHASE STATEMENTS.**

6 Section 13(e) of the Securities Exchange Act of 1934
7 (15 U.S.C. 78m(e)) is amended

8 (1) in paragraph (3), by striking “a fee of $\frac{1}{50}$
9 of 1 per centum of the value of securities proposed
10 to be purchased” and inserting “a fee at a rate that,
11 subject to paragraphs (5) and (6), is equal to \$92
12 per \$1,000,000 of the value of securities proposed to
13 be purchased”;

14 (2) by inserting after paragraph (3) the fol-
15 lowing new paragraphs:

16 “(4) **OFFSETTING COLLECTIONS.**—Fees col-
17 lected pursuant to this subsection for any fiscal year
18 shall be deposited and credited as offsetting collec-
19 tions to the account providing appropriations to the
20 Commission, and, except as provided in paragraph
21 (9), shall not be collected for any fiscal year except
22 to the extent provided in advance in appropriation
23 Acts. No fees collected pursuant to this subsection
24 for fiscal year 2002 or any succeeding fiscal year

1 shall be deposited and credited as general revenue of
2 the Treasury.

3 “(5) ANNUAL ADJUSTMENT.—For each of the
4 fiscal years 2003 through 2011, the Commission
5 shall by order adjust the rate required by paragraph
6 (3) for such fiscal year to a rate that is equal to the
7 rate (expressed in dollars per million) that is appli-
8 cable under section 6(b) of the Securities Act of
9 1933 for such fiscal year.

10 “(6) FINAL RATE ADJUSTMENT.—For fiscal
11 year 2012 and all of the succeeding fiscal years, the
12 Commission shall by order adjust the rate required
13 by paragraph (3) for all of such fiscal years to a
14 rate that is equal to the rate (expressed in dollars
15 per million) that is applicable under section 6(b) of
16 the Securities Act of 1933 for all of such fiscal
17 years.

18 “(7) PRO RATA APPLICATION.—The rates per
19 \$1,000,000 required by this subsection shall be ap-
20 plied pro rata to amounts and balances of less than
21 \$1,000,000.

22 “(8) REVIEW AND EFFECTIVE DATE.— In exer-
23 cising its authority under this subsection, the Com-
24 mission shall not be required to comply with the pro-
25 visions of section 553 of title 5, United States Code.

1 An adjusted rate prescribed under paragraph (5) or
2 (6) and published under paragraph (10) shall not be
3 subject to judicial review. Subject to paragraphs (4)
4 and (9)—

5 “(A) an adjusted rate prescribed under
6 paragraph (5) shall take effect on the later of—

7 “(i) the first day of the fiscal year to
8 which such rate applies; or

9 “(ii) 5 days after the date on which a
10 regular appropriation to the Commission
11 for such fiscal year is enacted; and

12 “(B) an adjusted rate prescribed under
13 paragraph (6) shall take effect on the later of—

14 “(i) the first day of fiscal year 2012;
15 or

16 “(ii) 5 days after the date on which a
17 regular appropriation to the Commission
18 for fiscal year 2012 is enacted.

19 “(9) LAPSE OF APPROPRIATION.—If on the
20 first day of a fiscal year a regular appropriation to
21 the Commission has not been enacted, the Commis-
22 sion shall continue to collect fees (as offsetting col-
23 lections) under this subsection at the rate in effect
24 during the preceding fiscal year, until 5 days after
25 the date such a regular appropriation is enacted.

1 “(10) PUBLICATION.—The rate applicable
2 under this subsection for each fiscal year is pub-
3 lished pursuant to section 6(b)(10) of the Securities
4 Act of 1933.”.

5 **SEC. 6. FEES FOR PROXY SOLICITATIONS AND STATE-**
6 **MENTS IN CORPORATE CONTROL TRANS-**
7 **ACTIONS.**

8 Section 14(g) of the Securities Exchange Act of 1934
9 (15 U.S.C. 78m(e)(3)) is amended—

10 (1) in paragraphs (1) and (3), by striking “a
11 fee of $\frac{1}{50}$ of 1 per centum of” each place it appears
12 and inserting “a fee at a rate that, subject to para-
13 graphs (5) and (6), is equal to \$92 per \$1,000,000
14 of”;

15 (2) by redesignating paragraph (4) as para-
16 graph (11); and

17 (3) by inserting after paragraph (3) the fol-
18 lowing new paragraphs:

19 “(4) OFFSETTING COLLECTIONS.—Fees col-
20 lected pursuant to this subsection for any fiscal year
21 shall be deposited and credited as offsetting collec-
22 tions to the account providing appropriations to the
23 Commission, and, except as provided in paragraph
24 (9), shall not be collected for any fiscal year except
25 to the extent provided in advance in appropriation

1 Acts. No fees collected pursuant to this subsection
2 for fiscal year 2002 or any succeeding fiscal year
3 shall be deposited and credited as general revenue of
4 the Treasury.

5 “(5) ANNUAL ADJUSTMENT.—For each of the
6 fiscal years 2003 through 2011, the Commission
7 shall by order adjust each of the rates required by
8 paragraphs (1) and (3) for such fiscal year to a rate
9 that is equal to the rate (expressed in dollars per
10 million) that is applicable under section 6(b) of the
11 Securities Act of 1933 for such fiscal year.

12 “(6) FINAL RATE ADJUSTMENT.—For fiscal
13 year 2012 and all of the succeeding fiscal years, the
14 Commission shall by order adjust each of the rates
15 required by paragraphs (1) and (3) for all of such
16 fiscal years to a rate that is equal to the rate (ex-
17 pressed in dollars per million) that is applicable
18 under section 6(b) of the Securities Act of 1933 for
19 all of such fiscal years.

20 “(7) PRO RATA APPLICATION.—The rates per
21 \$1,000,000 required by this subsection shall be ap-
22 plied pro rata to amounts and balances of less than
23 \$1,000,000.

24 “(8) REVIEW AND EFFECTIVE DATE.— In exer-
25 cising its authority under this subsection, the Com-

1 mission shall not be required to comply with the pro-
2 visions of section 553 of title 5, United States Code.
3 An adjusted rate prescribed under paragraph (5) or
4 (6) and published under paragraph (10) shall not be
5 subject to judicial review. Subject to paragraphs (4)
6 and (9)—

7 “(A) an adjusted rate prescribed under
8 paragraph (5) shall take effect on the later of—

9 “(i) the first day of the fiscal year to
10 which such rate applies; or

11 “(ii) 5 days after the date on which a
12 regular appropriation to the Commission
13 for such fiscal year is enacted; and

14 “(B) an adjusted rate prescribed under
15 paragraph (6) shall take effect on the later of—

16 “(i) the first day of fiscal year 2012;
17 or

18 “(ii) 5 days after the date on which a
19 regular appropriation to the Commission
20 for fiscal year 2012 is enacted.

21 “(9) LAPSE OF APPROPRIATION.—If on the
22 first day of a fiscal year a regular appropriation to
23 the Commission has not been enacted, the Commis-
24 sion shall continue to collect fees (as offsetting col-
25 lections) under this subsection at the rate in effect

1 during the preceding fiscal year, until 5 days after
 2 the date such a regular appropriation is enacted.

3 “(10) PUBLICATION.—The rate applicable
 4 under this subsection for each fiscal year is pub-
 5 lished pursuant to section 6(b)(10) of the Securities
 6 Act of 1933.”.

7 **SEC. 7. TRUST INDENTURE ACT FEE.**

8 Section 307(b) of the Trust Indenture Act of 1939
 9 (15 U.S.C. 77ggg(b)) is amended by striking “Commis-
 10 sion, but, in the case” and all that follows and inserting
 11 “Commission.”.

12 **SEC. 8. COMPARABILITY PROVISIONS.**

13 (a) COMMISSION DEMONSTRATION PROJECT.—Sub-
 14 part C of part III of title 5, United States Code, is amend-
 15 ed by adding at the end the following:

16 **“CHAPTER 48—AGENCY PERSONNEL**
 17 **DEMONSTRATION PROJECT**

“Sec.

“4801. Nonapplicability of chapter 47.

“4802. Securities and Exchange Commission.

18 **“§ 4801. Nonapplicability of chapter 47**

19 “Chapter 47 shall not apply to this chapter.

20 **“§ 4802. Securities and Exchange Commission**

21 “(a) In this section, the term ‘Commission’ means the
 22 Securities and Exchange Commission.

1 “(b) The Commission may appoint and fix the com-
2 pensation of such officers, attorneys, economists, exam-
3 iners, and other employees as may be necessary for car-
4 rying out its functions under the securities laws as defined
5 under section 3 of the Securities Exchange Act of 1934
6 (15 U.S.C. 78c).

7 “(c) Rates of basic pay for all employees of the Com-
8 mission may be set and adjusted by the Commission with-
9 out regard to the provisions of chapter 51 or subchapter
10 III of chapter 53.

11 “(d) The Commission may provide additional com-
12 pensation and benefits to employees of the Commission if
13 the same type of compensation or benefits are then being
14 provided by any agency referred to under section 1206 of
15 the Financial Institutions Reform, Recovery, and Enforce-
16 ment Act of 1989 (12 U.S.C. 1833b) or, if not then being
17 provided, could be provided by such an agency under ap-
18 plicable provisions of law, rule, or regulation. In setting
19 and adjusting the total amount of compensation and bene-
20 fits for employees, the Commission shall consult with, and
21 seek to maintain comparability with, the agencies referred
22 to under section 1206 of the Financial Institutions Re-
23 form, Recovery, and Enforcement Act of 1989 (12 U.S.C.
24 1833b).

1 “(e) The Commission shall consult with the Office of
2 Personnel Management in the implementation of this sec-
3 tion.

4 “(f) This section shall be administered consistent
5 with merit system principles.”.

6 (b) EMPLOYEES REPRESENTED BY LABOR ORGANI-
7 ZATIONS.—To the extent that any employee of the Securi-
8 ties and Exchange Commission is represented by a labor
9 organization with exclusive recognition in accordance with
10 chapter 71 of title 5, United States Code, no reduction
11 in base pay of such employee shall be made by reason of
12 enactment of this section (including the amendments
13 made by this section).

14 (c) IMPLEMENTATION PLAN AND REPORT.—

15 (1) IMPLEMENTATION PLAN.—

16 (A) IN GENERAL.—The Securities and Ex-
17 change Commission shall develop a plan to im-
18 plement section 4802 of title 5, United States
19 Code, as added by this section.

20 (B) INCLUSION IN ANNUAL PERFORMANCE
21 PLAN AND REPORT.—The Securities and Ex-
22 change Commission shall include—

23 (i) the plan developed under this para-
24 graph in the annual program performance

1 plan submitted under section 1115 of title
2 31, United States Code; and

3 (ii) the effects of implementing the
4 plan developed under this paragraph in the
5 annual program performance report sub-
6 mitted under section 1116 of title 31,
7 United States Code.

8 (2) IMPLEMENTATION REPORT.—

9 (A) IN GENERAL.—Before implementing
10 the plan developed under paragraph (1), the Se-
11 curities and Exchange Commission shall submit
12 a report to the Committee on Governmental Af-
13 fairs and the Committee on Banking, Housing,
14 and Urban Affairs of the Senate, the Com-
15 mittee on Government Reform and the Com-
16 mittee on Financial Services of the House of
17 Representatives, and the Office of Personnel
18 Management on the details of the plan.

19 (B) CONTENT.—The report under this
20 paragraph shall include—

21 (i) evidence and supporting docu-
22 mentation justifying the plan; and

23 (ii) budgeting projections on costs and
24 benefits resulting from the plan.

25 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

1 (1) AMENDMENTS TO TITLE 5, UNITED STATES
2 CODE.—

3 (A) The table of chapters for part III of
4 title 5, United States Code, is amended by add-
5 ing at the end of subpart C the following:

“48. Agency Personnel Demonstration Project 4801.”.

6 (B) Section 3132(a)(1) of title 5, United
7 States Code, is amended—

8 (i) in subparagraph (C), by striking
9 “or” after the semicolon;

10 (ii) in subparagraph (D), by inserting
11 “or” after the semicolon; and

12 (iii) by adding at the end the fol-
13 lowing:

14 “(E) the Securities and Exchange Commis-
15 sion;”.

16 (C) Section 5373(a) of title 5, United
17 States Code, is amended—

18 (i) in paragraph (2), by striking “or”
19 after the semicolon;

20 (ii) in paragraph (3), by striking the
21 period and inserting “; or”; and

22 (iii) by adding at the end the fol-
23 lowing:

24 “(4) section 4802.”.

1 (2) AMENDMENT TO SECURITIES EXCHANGE
2 ACT OF 1934.—Section 4(b) of the Securities Ex-
3 change Act of 1934 (15 U.S.C. 78d(b)) is amended
4 by striking paragraphs (1) and (2) and inserting the
5 following:

6 “(1) APPOINTMENT AND COMPENSATION.—The
7 Commission shall appoint and compensate officers,
8 attorneys, economists, examiners, and other employ-
9 ees in accordance with section 4802 of title 5,
10 United States Code.

11 “(2) REPORTING OF INFORMATION.—In estab-
12 lishing and adjusting schedules of compensation and
13 benefits for officers, attorneys, economists, exam-
14 iners, and other employees of the Commission under
15 applicable provisions of law, the Commission shall
16 inform the heads of the agencies referred to under
17 section 1206 of the Financial Institutions Reform,
18 Recovery, and Enforcement Act of 1989 (12 U.S.C.
19 1833b) and Congress of such compensation and ben-
20 efits and shall seek to maintain comparability with
21 such agencies regarding compensation and bene-
22 fits.”.

23 (3) AMENDMENT TO FIRREA OF 1989.—Section
24 1206 of the Financial Institutions Reform, Recov-
25 ery, and Enforcement Act of 1989 (12 U.S.C.

1 1833b) is amended by striking “the Thrift Depositor
2 Protection Oversight Board of the Resolution Trust
3 Corporation”.

4 **SEC. 9. STUDY OF THE EFFECT OF FEE REDUCTIONS.**

5 (a) STUDY.—The Office of Economic Analysis of the
6 Securities and Exchange Commission (hereinafter referred
7 to as the “Office”) shall conduct a study of the extent
8 to which the benefits of reductions in fees effected as a
9 result of this Act are passed on to investors.

10 (b) FACTORS FOR CONSIDERATION.—In conducting
11 the study under subsection (a), the Office shall—

12 (1) consider the various elements of the securi-
13 ties industry directly and indirectly benefitting from
14 the fee reductions, including purchasers and sellers
15 of securities, members of national securities ex-
16 changes, issuers, broker-dealers, underwriters, par-
17 ticipants in investment companies, retirement pro-
18 grams, and others;

19 (2) consider the impact on different types of in-
20 vestors, such as individual equity holders, individual
21 investment company shareholders, businesses, and
22 other types of investors;

23 (3) include in the interpretation of the term
24 “investor” shareholders of entities subject to the fee
25 reductions; and

1 (4) consider the economic benefits to investors
2 flowing from the fee reductions to include such fac-
3 tors as market efficiency, expansion of investment
4 opportunities, and enhanced liquidity and capital
5 formation.

6 (c) REPORT TO CONGRESS.—Not later than 2 years
7 after the date of enactment of this Act, the Securities and
8 Exchange Commission shall submit to the Congress the
9 report prepared by the Office on the findings of the study
10 conducted under subsection (a).

11 **SEC. 10. STUDY OF CONVERSION TO SELF-FUNDING.**

12 (a) GAO STUDY REQUIRED.—The Comptroller Gen-
13 eral shall conduct a study of the impact, implications, and
14 consequences of converting the Securities and Exchange
15 Commission to a self-funded basis. Such study shall in-
16 clude analysis of the following issues:

17 (1) SEC OPERATIONS.—The impact of such
18 conversion on the Commission’s operations, includ-
19 ing staff quality, recruitment, and retention.

20 (2) CONGRESSIONAL OVERSIGHT.—The implica-
21 tions for congressional oversight of the Commission,
22 including whether imposing annual expenditure limi-
23 tations would be beneficial to such oversight.

1 (3) FEES.—The likely consequences of the con-
2 version on the rates, collection procedures, and pre-
3 dictability of fees collected by the Commission.

4 (4) APPROPRIATIONS.—The methods by which
5 the conversion may be accomplished without reduc-
6 ing the availability of offsetting collections for appro-
7 priations.

8 (5) OTHER MATTERS.—Such other impacts, im-
9 plications, and consequences as the Comptroller
10 General may consider relevant to congressional con-
11 sideration of the question of such conversion.

12 (b) SUBMISSION OF REPORT.—The Comptroller Gen-
13 eral shall submit to the Committees on Financial Services
14 and Government Reform of the House of Representatives
15 and the Committees on Banking, Housing, and Urban Af-
16 fairs and Governmental Affairs of the Senate a report on
17 the study required by subsection (a) no later than 180
18 after the date of enactment of this Act.

19 (c) DEFINITION.—For the purposes of this section,
20 the term “self-funded basis” means that—

21 (1) an agency is authorized to deposit the re-
22 ceipts of its collections in the Treasury of the United
23 States, or in a depository institution, but such de-
24 posits are not treated as Government funds or ap-
25 propriated monies, and are available for the salaries

1 and other expenses of the Commission and its em-
2 ployees without annual appropriation or apportion-
3 ment; and

4 (2) the agency is authorized to employ and fix
5 the salaries and other compensation of its officers
6 and employees, and such salaries and other com-
7 pensation are paid without regard to the provisions
8 of other laws applicable to officers and employees of
9 the United States.

10 **SEC. 11. EFFECTIVE DATES.**

11 (a) IN GENERAL.—Except as provided in subsections
12 (b) and (c), the amendments made by this Act shall take
13 effect on October 1, 2001.

14 (b) IMMEDIATE TRANSACTION FEE REDUCTIONS.—
15 The amendments made by section 2 shall take effect on
16 the later of—

17 (1) the first day of fiscal year 2002; or

18 (2) 30 days after the date on which a regular
19 appropriation to the Commission for such fiscal year
20 is enacted.

21 (c) ADDITIONAL EXCEPTIONS.—The authorities pro-
22 vided by section 6(b)(9) of the Securities Act of 1933 and
23 sections 13(e)(9), 14(g)(9) and 31(k) of the Securities Ex-

- 1 change Act of 1934, as so designated by this Act, shall
- 2 not apply until October 1, 2002.

Passed the House of Representatives June 14, 2001.

Attest:

Clerk.

107TH CONGRESS
1ST SESSION

H. R. 1088

AN ACT

To amend the Securities Exchange Act of 1934 to reduce fees collected by the Securities and Exchange Commission, and for other purposes.